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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-376**

13 JONATHAN MICHAEL VRBAN
A.K.A. JON MICHAEL VRBAN
1980 Vallejo Street, Ninth Floor
San Francisco, California 94153
14
15 Registered Nurse License No. 452385
Nurse Practitioner Certificate No. NP11632
Nurse Practitioner Furnisher Certificate
16 No. NPF11632

A C C U S A T I O N

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, MEd., RN, (Complainant), brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs,

24 2. On or about March 31, 1990, the Board of Registered Nursing issued Registered
25 Nurse License Number 452385 to Jonathan Michael Vrbán, also known as Jon Michael Vrbán
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and will expire on May 31, 2011, unless renewed. On or about June
28 23, 2000, the Board of Registered Nursing issued Nurse Practitioner Certificate No. NP11632 to

1 Respondent. The Nurse Practitioner Certificate was in full force and effect at all times relevant
2 to the charges brought herein and will expire on May 31, 2011, unless renewed. On or about
3 February 5, 2001, the Board of Registered Nursing issued Nurse Practitioner Furnisher
4 Certificate No. NPF11632 to Respondent. The Nurse Practitioner Certificate Furnisher was in
5 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
6 2011, unless renewed.

7 JURISDICTION

8 3. This Accusation is brought before the Board of Registered Nursing (Board),
9 Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11 STATUTORY PROVISIONS

12 4. Section 2750 of the Code states:

13 "Every certificate holder or licensee, including licensees holding temporary licenses, or
14 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
15 article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in
16 this article, "license" includes certificate, registration, or any other authorization to engage in
17 practice regulated by this chapter. The proceedings under this article shall be conducted in
18 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
19 of the Government Code [the Administrative Procedure Act], and the board shall have all the
20 powers granted therein."

21 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a
22 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
23 against the licensee or to render a decision imposing discipline on the license. Under section
24 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
25 the expiration.

26 6. Section 2761 of the Code states, in pertinent part, that "[t]he board may take
27 disciplinary action against a certified or licensed nurse or deny an application for a
28 certificate or license for any of the following:

1 "(a) Unprofessional conduct.

2 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
3 functions, and duties of a registered nurse, in which event the record of the conviction shall be
4 conclusive evidence thereof."

5 7. Section 2762 of the Code states, in pertinent part, that "[i]n addition to other acts
6 constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice
7 Act], it is unprofessional conduct for a person licensed under this chapter to do any of the
8 following:

9 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof."

19 8. Section 490 of the Code states, in pertinent part, that "[a] board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime, if the crime is
21 substantially related to the qualifications, functions, or duties of the business or profession for
22 which the license was issued. A conviction within the meaning of this section means a plea or
23 verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board
24 is permitted to take following the establishment of a conviction may be taken when the time for
25 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
26 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
27 order under the provisions of Section 1203.4 of the Penal Code."

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1 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request
2 the administrative law judge to direct a licensee found to have committed a violation or
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
4 and enforcement of the case.

5 FIRST CAUSE FOR DISCIPLINARY ACTION

6 (Substantially Related Conviction)

7 10. Respondent has subjected his registered nurse license, nurse practitioner
8 certificate, and nurse practitioner furnisher certificate to disciplinary action under Sections
9 2761(f) and 490 of the Code in that he was convicted of a crime substantially related to the
10 qualifications, functions or duties of a registered nurse in that on or about August 2, 2007, in the
11 Superior Court of California, County of Yolo, Case Number CR-07-2667, entitled *The People of*
12 *the State of California vs. Jon Michael Urban*, Respondent was convicted by the court on his
13 plea of no contest of violating Section 23152(b) of the Vehicle Code (driving with a blood
14 alcohol content of .08% and more), a misdemeanor. The imposition of sentence was suspended
15 and Respondent was placed on summary probation for three years upon terms and conditions,
16 which included, but were not limited to, the following: obeying all laws; serving 48 hours in
17 County Jail; paying a fine of \$2,860.00; enrolling in and successfully completing First Offender
18 DUI program; submitting to chemical tests when stopped or suspected of driving while under the
19 influence of alcohol; and not consuming alcoholic beverages to excess. The factual
20 circumstances surrounding the conviction are as follows:

21 a. On or about March 24, 2007, at 4:45 p.m., Respondent, while driving his vehicle,
22 a 2006 Audi, was involved in a single vehicle accident at the location of County Road 90A and
23 County Road 25A in the city of Woodland, Yolo County. When California Highway Patrol
24 (CHP) Officer E. Garcia arrived on the scene, Respondent was standing outside of his vehicle
25 talking on his cellular phone "to his partner." Officer Garcia asked Respondent if he was hurt,
26 and Respondent said he was not and refused any medical help. Officer Garcia immediately
27 smelled the odor of an alcoholic beverage upon Respondent's breath as he spoke and Officer
28 Garcia observed that Respondent swayed as he walked and as he stood in place. Officer Garcia

1 observed that Respondent's eyes were red and watery and that his speech was slurred.
2 Thereafter, Officer Garcia asked Respondent some questions about the collision. Respondent
3 said that the collision occurred after he left Cache Creek casino where he only drank two cups of
4 wine, and related that he began to drink there at 11:00 a.m. and stopped drinking at 12:00 p.m.
5 Respondent performed and failed several field sobriety tests. The officer next administered three
6 preliminary alcohol screening devise (PAS) tests, whereby Respondent blew into a devise that
7 measures alcohol levels. The first test was unsuccessful because Respondent did not blow hard
8 enough for the device to obtain a sample. The next test, using a manual trap, showed that his
9 blood alcohol content (BAC) was .175 percent at 17:25 hours. The last test, using a manual trap,
10 showed that his BAC was 0.160 percent at 17:28 hours. Thereafter, Respondent was arrested for
11 driving under the influence (DUI).

12 b. After being advised of the implied consent law, Respondent consented to submit to a
13 blood test and was then transported by Officer Garcia to Woodland Memorial Hospital for a legal
14 blood draw and medical clearance. Before a blood draw could take place, at his request,
15 Respondent was allowed to use the restroom to defecate. Respondent was moaning in the
16 restroom where he stayed for over ten minutes. Respondent was then taken back to the room for
17 the legal blood draw and while being asked questions by the admitting nurse, he began to
18 complain of more pain and told her he needed to "poop" again. Officer Garcia took Respondent
19 to the restroom, where he moaned again for approximately five minutes. Respondent was
20 admitted to the hospital because of his claims of injuries. At approximately 20:33 hours,
21 registered nurse Nova Sante obtained a blood sample from him. Officer Garcia took possession
22 of the blood sample, which was later placed in the Woodland CHP evidence locker. Based upon
23 the doctor's request that Respondent needed further treatment, Respondent was released to
24 Woodland Memorial Hospital.

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1 SECOND CAUSE FOR DISCIPLINARY ACTION

2 (Conviction of a Crime Involving Alcohol)

3 11. The allegations of paragraph 10 are hereby realleged and incorporated by
4 reference as if fully set forth.

5 12. Respondent has subjected his registered nurse license, nurse practitioner
6 certificate, and nurse practitioner furnisher certificate to disciplinary action under Section
7 2761(a) of the Code on the grounds of unprofessional conduct, as defined by Code section
8 2762(c), in that on or about August 2, 2007, Respondent was convicted of a crime involving the
9 consumption of alcoholic beverages, as set forth above in paragraph 10.

10 THIRD CAUSE FOR DISCIPLINARY ACTION

11 (Use of Alcohol to a Dangerous Extent)

12 13. The allegations of paragraph 10 are hereby realleged and incorporated by
13 reference as if fully set forth.

14 14. Respondent has subjected his registered nurse license, nurse practitioner
15 certificate, and nurse practitioner furnisher certificate to disciplinary action under Section
16 2761(a) of the Code on the grounds of unprofessional conduct, as defined in Code section
17 2762(b), in that on or about March 24, 2007, Respondent used and was under the influence of
18 alcoholic beverages, while driving a vehicle in Yolo County, California, to an extent dangerous
19 or injurious to himself, and the public, as set forth above in paragraph 10.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License No. 452385 issued to Jonathan
24 Michael Vrban, also known as Jon Michael Vrban (Respondent);

25 2. Revoking or suspending Nurse Practitioner Certificate No. NP11632 issued to
26 Respondent;

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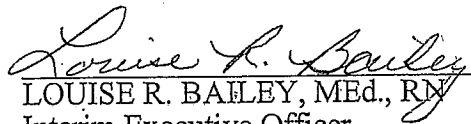
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1 3. Revoking or suspending Nurse Practitioner Furnisher Certificate No. NPF11632
2 issued to Respondent;

3 4. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs
4 of the investigation and enforcement of this case, pursuant to Business and Professions Code
5 section 125.3; and

6 5. Taking such other and further action as deemed necessary and proper.
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8 DATED: 2/8/2010
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11 
12 LOUISE R. BAILEY, MED., RN
13 Interim Executive Officer
14 Board of Registered Nursing
15 Department of Consumer Affairs
16 State of California
17 Complainant

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